

ARTICLE 13

CAMPAIGN CONTRIBUTION LIMITS AND
EXPENDITURE LIMITATIONS FOR CITY ELECTIVE OFFICES

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ARTICLE 13

CAMPAIGN CONTRIBUTION LIMITS AND EXPENDITURE LIMITATIONS FOR CITY ELECTIVE OFFICES

SEC. 2-13.00. VOLUNTARY EXPENDITURE LIMITS FOR CAMPAIGNS FOR CITY ELECTIVE OFFICES.

- (a) A voluntary expenditure limit of \$50,000 per candidate is hereby established for each election to City elective office. As used in this section, the term "City elective office" shall mean the offices of Members of the City Council and Mayor. Beginning January 1, 2004, the amount established by this section shall be adjusted by a percentage equal to the San Francisco Bay Area All Urban Consumer Price Index (CPI). The City Clerk shall calculate such increase and post the expenditure limit in a visible place in the City Clerk's Office.
- (b) Prior to accepting any contribution for a campaign, each candidate for City elective office shall file with the Hayward City Clerk statement of acceptance or rejection of the voluntary expenditure limit established herein with regard to that campaign.
- (c) No candidate for City elective office who accepts the voluntary expenditure limit established herein and no controlled campaign committee of such a candidate shall make campaign expenditures cumulatively in excess of the voluntary expenditure limit established herein.
- (d) Each candidate for City elective office who rejects the voluntary expenditure limit established herein shall be subject to the contribution limit set forth in Section 2-13.01 of this Article as that section may be amended from time to time.
- (e) Each candidate for City elective office who accepts the voluntary expenditure limit established herein shall be subject to the contribution limit set forth in Section 2-13.02 of this Article as that section may be amended from time to time.

SEC. 2-13.01 LIMITATION OF CONTRIBUTIONS.

- (a) Except as provided hereafter in Section 2-13.02 of this Article, no person shall make to any candidate for City elective office, or the candidate's controlled committee, a contribution or contributions totaling more than two hundred and fifty dollars (\$250) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

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- (b) Except as provided hereafter in Section 2-13.02 of this Article, no candidate running for City elective office, or the candidate's controlled committee, shall accept a contribution or contributions totaling more than two hundred and fifty dollars (\$250) per contributor for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
 - (c) For the purposes of this section and section 2-13.02 the term person shall include corporations, businesses, partnerships, associations, groups and committees.
 - (d) Beginning January 1, 2006 the amounts established by this section shall be adjusted annually by a percentage equal to the San Francisco Bay Area All Urban Consumer Price Index (CPI). The City Clerk shall calculate such increase and post the contribution limit in a visible place in the City Clerk's Office.

SEC. 2-13.02 CONTRIBUTION LIMITATIONS FOR CANDIDATES
ACCEPTING EXPENDITURE LIMITATIONS.

- (a) Notwithstanding Section 2-13.01, if a candidate accepts the expenditure limit set forth in section 2-13.00 (a) of this Article no person shall make to any candidate for City elective office, or the candidate's controlled committee, a contribution or contributions totaling more than one thousand dollars (\$1000) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
 - (b) Notwithstanding Section 2-13.01, if a candidate accepts the expenditure limit set forth in section 2-13.00 (a) of this Article, no candidate running for City elective office, or the candidate's controlled committee, shall accept a contribution or contributions totaling more than one thousand dollars (\$1000) per person for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
 - (c) Beginning January 1, 2006 the amounts established by this section shall be adjusted annually by a percentage equal to the San Francisco Bay Area All Urban Consumer Price Index (CPI). The City Clerk shall calculate such increase and post the contribution limit in a visible place in the City Clerk's Office.
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SEC. 2-13.02.01 CONTRIBUTION DEFINED. "Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee must otherwise report under the terms of this Article. The term "contribution" further includes any transfer, gift, loan, advance, deposit,

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forgiveness of indebtedness, payment of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term "contribution" shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term "contribution" include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars, nor shall it include food and beverages the value of which for any one event is not more than fifty dollars.

For the purposes of this section, in-kind contributions shall be valued in a manner that is consistent with State law. The after hours use of office space shall not be considered a contribution for the purposes of this Article.

SEC. 2-13.02.02 AGGREGATION OF CONTRIBUTIONS.

Aggregation of Contributions

- (a) For the purposes of the contribution limits of this Article, the following terms shall have the following meanings:
 - (1) "Entity" shall mean any person other than an individual.
 - (2) "Majority owned" shall mean any ownership of more than 50%.
- (b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.
- (c) Contributions that are made by entities that are majority owned by any individual shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person.
- (d) Contributions made by a husband and wife shall not be aggregated.

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SEC. 2-13.03 NOTIFICATION TO VOTERS. The City Clerk shall publish a listing of candidates for office and indicate whether such candidates have agreed to the voluntary spending limit. The list may be published on the City's web site.

SEC. 2-13.04 ENFORCEMENT AND PENALTIES.

- (a) Any person who knowingly or willfully violates any provision of this Article is guilty of a misdemeanor.
- (b) In addition to other penalties provided by law, a fine of up to one thousand dollars (\$1,000) for each violation of this Article may be imposed.

- (c) Prosecution for violations of this title must be commenced within four years of the date on which the violation occurred.

SEC. 2-13.05 CIVIL LIABILITY FOR VIOLATIONS.

- (a) Any person who violates any provision of this Article shall be liable in a civil action brought by either the district attorney or independent counsel, appointed by the City Attorney, for an amount up to one thousand dollars (\$1,000) per violation of this Article.
- (b) No civil action alleging a violation of this Article may be filed against a person pursuant to this section if a criminal prosecution arising out of the same allegations is pending.

SEC. 2-13.06 VIOLATION OF TITLE; PROBABLE CAUSE; HEARING; NOTICE; ORDER.

- (a) If evidence of a violation of this Article is presented to the City Clerk, she/he shall send written notice to the candidate who is the subject of the complaint and notify such candidate that the alleged violation must be corrected within ten (10) calendar days of the date on the written notice. If no correction has been made within the allotted time, the City Clerk shall consult with the City Attorney to determine if probable cause exists to either refer the matter to the District Attorney or appoint an independent counsel to serve as a hearing officer. Such hearing officer shall not be an employee of the City.
- (b) In the event that the matter is referred to a hearing officer, notice shall be given and a hearing be conducted in accordance with the Administrative Procedures Act contained in the California Government Code. If the hearing officer determines on the basis of the hearing that a violation has occurred, a written order containing findings of fact shall be issued which may require the violator to:
- (1) Cease and desist violation of this Article;
 - (2) Pay a monetary penalty of up to one thousand dollars (\$1,000) per violation to the General Fund of the City.

If it is determined, after a hearing, that no violation of this Article has occurred, an order so stating shall be prepared.

SEC. 2-13.07 ELECTION CONTEST AND ELECTION TERM.

- (a) Provisions of this Article be applicable to each City of Hayward Municipal election contest for City Elective Office as defined in Section 2-13.00. Such limits shall not be applicable to recall elections. For the purposes of this Article an election contest shall commence the day following a municipal election for City Elective Office and terminate on the day of the next election *for the same City Elective Office*.
- (b) Notwithstanding subdivision (a) of this section, an election contest term may be extended for a period not to exceed 180 days to allow a candidate to collect funds for the purpose of retiring unpaid debt from the previous election contest. A candidate desiring to extend an election term must file a written notice with the City Clerk within ten days of the election for which the candidate desires to have the term extended. All funds collected to retire the debt referred to in this subdivision shall be subject to the contribution limitations established for the election contest whose term is being extended.
- (c) Surplus funds collected and not expended by a candidate for a City Elective Office may be utilized in any subsequent election for a City Elective Office. Such funds shall not be counted as contributions for the purposes of this Article.

Repealed and Replaced by Ordinance 02-19, adopted October 29, 2002

Amended by Ord. 05-07, adopted September 6, 2005